

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

TASHA RATHBUN, *individually and as
personal representative of the Estate of
Scarlett Rose Elmore,*

Plaintiff,

v.

No. 2:22-cv-00053-RB-JHR

DARLA BANNISTER, RN, et al.,

Defendants.

RENEWED ORDER TO SHOW CAUSE

THIS MATTER is before the Court following Plaintiff Tasha Rathbun's *ex parte* communication with the Court and her failure to sufficiently respond to the Court's Order to Show Cause [Doc. 53]. The Court thus issues a new Order to Show Cause so that Rathbun can respond in a way that complies with the Federal Rules of Civil Procedure and the Court's Local Rules.

On June 26, 2023, the Court issued an Order to Show Cause directing Rathbun to provide specific information to the Court by July 11, 2023. [Doc. 53]. A letter from Rathbun, addressed to Judge Sweazea, was received by the Court on July 13, 2023. The letter appeared to be a response to the Court's Order to Show Cause, but it did not comply with the applicable rules for court filings and violated rules against *ex parte* communications with the Court. *See* [Doc. 54]. Insofar as Rathbun's letter was a response to the Order to Show Cause, it is rejected.

As noted in the previous Order to Show Cause, the Court may impose sanctions for failure to prosecute a case based on the Court's inherent power to regulate its docket and promote judicial efficiency. *See Olsen v. Mapes*, 333 F.3d 1199, 1204 (10th Cir. 2003); *Martinez v. Internal Revenue Serv.*, 744 F.2d 71, 73 (10th Cir. 1984). One such sanction within the Court's

discretion is dismissal without prejudice for want of prosecution. *See, e.g., Link v. Wabash R.R. Co.*, 370 U.S. 626, 628–30 (1962); *United States ex rel. Jimenez v. Health Net, Inc.*, 400 F.3d 853, 856 (10th Cir. 2005). Rule 41(b) of the Federal Rules of Civil Procedure also authorizes the Court to dismiss an action, without motions by the parties, for failure to prosecute.

IT IS THEREFORE ORDERED that, to avoid dismissal of her complaint, Plaintiff Tasha Rathbun shall respond in writing to this Order no later than **Thursday, August 3, 2023**, and state the following: (1) what is the cause for her failure to respond to the Court’s communications; (2) whether she intends to obtain new counsel to represent herself or the Estate of Scarlett Rose Elmore; and (3) up-to-date contact information through which she can be reached, including any phone numbers, email addresses, and physical addresses where she can be consistently contacted. Letters addressed directly to the Court, or directly to any judge in the District of New Mexico, will not be accepted. The response must instead be directed to the Clerk of Court, United States District Court, District of New Mexico, with the address for the Las Cruces division. The response must further comply with any other applicable rules for filing in the Federal Rules of Civil Procedure and the Local Rules for the District of New Mexico.

IT IS SO ORDERED.



HON. JERRY H. RITTER
UNITED STATES MAGISTRATE JUDGE